

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KAREN MUNSON,

Plaintiff,

v.

Civil Case No. 19-11883
Honorable Linda V. Parker

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**OPINION AND ORDER GRANTING MOTION FOR AUTHORIZATION
OF ATTORNEY FEES PURSUANT TO § 406(b)
OF THE SOCIAL SECURITY ACT**

Plaintiff commenced this action to appeal a final administrative decision denying her claim for benefits under the Social Security Act. The parties thereafter stipulated to a remand to the Social Security Administration for further action pursuant to sentence four of 42 U.S.C. § 405(g). (ECF No. 20.) The parties also stipulated to an order awarding attorney's fees to Plaintiff's counsel in the amount of \$2,782.50 under the Equal Access to Justice Act, 28 U.S.C. § 2412. (ECF No. 22.) On remand, Plaintiff was found disabled and awarded past due benefits of \$60,487.00. (Mot. Exs. A, B, ECF No. 23 at Pg ID 1412-20.) At the administrative level, Plaintiff requested an attorney's fee of \$6,000. (Mot. ¶ 8, ECF No. 23 at Pg ID 1404.)

The matter is presently before the Court on a motion for authorization of attorney's fees pursuant to 42 U.S.C. § 406(b) in the amount of \$9,121.75, filed by Plaintiff's counsel. (ECF No. 23.) Counsel indicates that, if awarded, he will return the fees awarded under the EAJA to Plaintiff. (*Id.* ¶ 8, Pg ID 1404.) Plaintiff consents to the fee request. (*Id.* ¶ 10, Pg ID 1405.) Defendant takes no position on the motion. (*Id.* ¶ 11, Pg ID 1405.)

Section 406(b) authorizes a court to award a social security claimant the fees for his or her representative in an amount not to exceed twenty-five percent of the total of the past-due benefits to which the claimant is entitled. 42 U.S.C. § 406(b). While fee awards are possible under both the EAJA and § 406(b), Congress provided that "the claimant's attorney must 'refund to the claimant the amount of the smaller fee.'" *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002) (quoting Pub. L. 99-80, § 3, 99 Stat. 186).

Accordingly,

IT IS ORDERED that Plaintiff's Motion for Attorney Fees Pursuant to § 406(b) of the Social Security Act is **GRANTED** and Plaintiff's counsel is awarded fees in the amount of \$9,121.75;

IT IS FURTHER ORDERED that Plaintiff's counsel shall refund to

Plaintiff the \$2,782.50 previously awarded under the Equal Access to Justice Act.

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: January 25, 2021